

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA

Norman A. Mayo,	)	Civil Action No.: 7:14-2051-BHH
	)	
Plaintiff,	)	
	)	<b>ORDER AND OPINION</b>
vs.	)	
	)	
Allstate Property and Casualty	)	
Insurance Company,	)	
	)	
Defendants.	)	
_____	)	

The plaintiff Norman A. Mayo (“the plaintiffs”), proceeding *pro se*, brought this action against the defendant Allstate Property and Casualty Insurance Company (“the defendant”) alleging various causes of action related to the fraudulent misrepresentation of insurance coverage. (Compl., ECF No. 1.) In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the within action was referred to United States Magistrate Judge Jacquelyn D. Austin for pretrial handling and a Report and Recommendation. Magistrate Judge Austin recommends that the defendant’s motion to dismiss be granted, the plaintiff’s motions to amend/correct the complaint be denied, and the plaintiff’s motions for summary judgment be found moot. (ECF No. 54.) The Report and Recommendation sets forth in detail the relevant facts and standards of law and the Court incorporates them without recitation.

**BACKGROUND**

On February 6, 2015, the Magistrate Judge issued a Report and Recommendation recommending that the defendant’s motion to dismiss be granted, the plaintiff’s motions to amend/correct the complaint be denied, and the plaintiff’s motions for summary judgment be found as moot. (ECF No. 54.) On February 23, 2015, the plaintiff filed a

motion for trial by jury, which the court will liberally construe as objections to the Report and Recommendation. (ECF No. 57.)

### **STANDARD OF REVIEW**

The Magistrate Judge makes only a recommendation to the court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261, 270–71, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation (the “Report”) to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, the court need not conduct a *de novo* review when a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982). In the absence of a timely filed, specific objection, the Magistrate Judge’s conclusions are reviewed only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

### **DISCUSSION**

The magistrate judge prepared an extensive and detailed Report recommending dismissal of the plaintiff’s case for failure to plead a facially plausible claim for relief. (ECF No. 54.) The plaintiff has filed a motion for trial by jury in response to the magistrate judge’s recommendation. Very respectfully, it does not address any of the conclusions of the magistrate judge or deficiencies in the plaintiff’s pleading. As stated by the magistrate

judge, the plaintiff has been invited and permitted to improve the understandability and clarity of his Complaint but has declined. For all these reasons recommended, the plaintiff has not pled any facially plausible claim for relief and the case should be dismissed.

**CONCLUSION**

For the reasons stated above and by the Magistrate Judge, the court adopts and incorporates by specific reference the magistrate judge's Report and Recommendation.

IT IS ORDERED, therefore, that the defendant's motion to dismiss (ECF NO. 21) is GRANTED. It is further ORDERED that the plaintiff's motions to amend/correct the complaint (ECF Nos. 37, 46); motion for a jury trial (ECF No. 57); and motions for summary judgment (ECF Nos. 38, 47) are DENIED.

IT IS SO ORDERED.

s/Bruce Howe Hendricks  
United States District Judge

March 17, 2015  
Greenville, South Carolina